IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 11799 of 2005

Between:

Chintala Yesuratnam, s/o Adinarayana,
r/o H.No.25/II/1736, Ummareddigunta, Nellore-4.

..... PETITIONER

AND

1 The District Collector (Assignments) Nellore, (A.P.)
2 The Revenue Divisional Officer, Nellore (A.P.)
3 The Mandal Revenue Officer, Nellore (A.P.)
4 The Deputy Director of Social Welfare, Nellore (A.P.)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ more appropriately a writ of mandamus to declare the impugned appeal orders passed by the 1st respondent i.e., Joint Collector, Nellore in D.Dis.(E1) 1010/2005, dt. 05-2005 as illegal, by setting aside the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.K.RAJANNA

Counsel for the Respondent No.: GP FOR REVENUE

The Court at the stage of admission made the following :

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ORAL ORDER:

Heard both sides.

In this Writ Petition, petitioner is seeking a Writ of Mandamus, declaring the impugned appeal orders passed by the first respondent-Joint Collector, Nellore in D.Dis(E1) 1010/2005, dated Nil, as illegal and consequently set aside the same.

Brief facts of the case are that the petitioner belongs to poor schedule caste coming from weaker section family. He along with others approached the then District Collector, Nellore and the District Collector, Nellore was pleased to sanction the allotment of Ac. 0.05 cents each for house-sites and Ac. 0.25 cents for cultivation purpose by forming a Society vide his proceedings dated 23.10.1968 and the same was allotted vide proceedings dated 13.12.1968. Since the date of allotment the petitioner along with others have been in possession and enjoyment of the same. While so, in the year 1993 a bypass road was laid on the upper side of houses and cultivation lands. Due to which, the drainage water and rainy water flowing from upper side has been flowing towards petitioner's cultivation lands and thus causing great inconvenience for growing vegetables in the said land due to stagnation of water. Therefore, he made a representation to the then Hon'ble Chief Minister and in response to the same, the District Collector, Nellore, vide his letter dated 23.5.1997 addressed a letter to the Superintending Engineer, R&B, Nellore for taking necessary action. But no action has been taken so far. On the other hand the respondents are trying to dispossess the petitioner and his family members from the

land on the ground that the respondents are going to construct Ambedkar Bhavan on the land. Therefore, he filed W.P.No. 26059 of 1999 and the same was disposed of on 21.12.1999 with an observation that in the absence of any specific order, the court cannot interfere but it was open to them to challenge the same in an appropriate forum. As the respondents were threatening he again filed W.P.No. 5591 of 2000 and the same was dismissed on 6.4.2000. He again filed O.S.No. 463 of 2000 on the file of the Principal junior Civil Jduge, Nellore for permanent injunction against the respondents but the same was dismissed on 7.7.2003 on the ground that the statutory appeal is provided under the Act. Again he filed A.S.No. 92 of 2003 on the file of the II Additional District Judge, Nellore raising substantial legal grounds and the same was also dismissed. Again he filed Second appeal before this Court and the same was also withdrawn. As there was direction in W.P.No. 16472 of 2004 to the petitioner to file an appeal, the petitioner filed an appeal before the first respondent on 10.2.2005 and the first respondent dismissed the appeal confirming the resumption orders. Hence, the present Writ Petition.

The Joint Collector after going through the history of the case in his proceedings D.Dis(E1)1010/2005 dated –05/2005 passed a detailed order narrating the previous litigation with regard to the disputed land in question ultimately at page 4 of the order he stated that the 'Mandal Revenue Officer, Nellore in his Rc.B.2287/2004 dated 29.10.2004 has apprised that none of the beneficiary has occupied the land in S.No. 2058 of Nellore Bit-I Village, which was allotted to the members of Gandhi Girijan Harijana Horticulture Joint Forming Society during 1968, but kept vacant. Consequent of which many houses were created by others in the area and the land measuring Ac. 0.50 cents which is under present dispute was not occupied by any one(including the beneficiaries) as it was like a pond filled with drainage and rain water with a depth of 5 feet. Hence, the land is kept vacant. It is evident that the land allotted to the petitioner has neither reclaimed nor made any construction thereon. The Mandal Revenue Officer, Nellore also reported that the Gunta (Pit) was leveled up to basement and also laid foundation for the building for Dr. B.R. Ambedkar Bhavan and compound wall also was constructed around the site by the Executive Engineer, District SC Society, Nellore during April 2000 and it is under the possession of Deputy Director, Social Welfare, Nellore. Under those circumstances, it is not proved that the appellant brought the land under cultivation and residential house construction in the disputed land. In view of the above, it is opined that there is no reason to interfere with the orders of the Revenue Divisional

Officer, Nellore Rc.1 1268 dated 20.2.2000 and same orders are hereby upheld.'

Assailing the correctness of the order, the learned counsel appearing for the petitioner relying on the judgment of the Larger Bench reported in LAND ACQUISTIION OFFICER-CUM-REVENUE DIVISIONAL OFFICER, CHEVELLA DIVISION VS. MEKALA PANDU AND OTHERS submits that the petitioner is entitled for compensation in case of acquisition of assigned land. But I am unable to accept his contention as the larger bench judgment has no retrospective effect to pay the compensation as the land was resumed by the Revenue Divisional Officer and it is an admitted case that the resumption orders were passed by the Revenue Divisional Officer, Nellore on 20.2.2000. Against which, an appeal before the Joint Collector was filed. Therefore, I am satisfied that the Joint Collector has gone into the matter and on appreciation of both oral and documentary evidence placed on record, he passed the order on the basis of the report given by the Mndal Revenue Officer, Nellore stating that the Gunta (Pit) was levelled up to basement and also laid foundation for the building for Dr. B.R. Ambedkar Bhavan and compound wall was also constructed around the site by the Executive Engineer, SC society, Nellore. Therefore, I see no reason to interfere with the orders passed by the Joint Collector, Nellore.

In view of the above, the Writ Petition fails and it is accordingly dismissed. No order as to costs.

ELIPE DHARMA RAO,J

DATED: 0706.2005

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To

1 The District Collector (Assignments) Nellore, (A.P.)
2 The Revenue Divisional Officer, Nellore (A.P.)
3 The Mandal Revenue Officer, Nellore (A.P.)
4 The Deputy Director of Social Welfare, Nellore (A.P.)

5. Two CCs to G.P. for Revenue, High Court of A.P. Hyderabad.(OUT)

6. Two CD copies.